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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,369	08/24/2001	Anthony J. Baerlocher	112300-766	9517

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EXAMINER
WHITE, CARMEN D

ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/682,369	BAERLOCHER, ANTHONY J.	
	Examiner	Art Unit	
	Carmen D. White	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-58 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-58 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Objections

Claim 14 is objected to because of the following informalities: "aid award symbols". This appears to be a typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-29, 31, 49-53 and 58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-29, 31 and 58 recite the limitation "the number" in line 15, 2-3 and 12, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claims 10-15 recite the limitation "said probabilities" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 49-53 recite the limitation "said selection sets" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application

published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-2, 8-9,17, 21-22, 24-25, 28-31, 35-37, 40-42, 45-47, and 58 are rejected under 35 U.S.C. 102(e) as being anticipated by ***Gura*** (6,159,097).

Regarding claims 1-2, 8-9,17, 21-22, 24-25, 28-31, 35-37, 40-42, 45, 47, and 58, Gura teaches a gaming device that comprises an award distributor having a plurality of award symbols, at least one selection group activator symbol, and a symbol indicator; at least one selection set having a plurality of selections; a plurality of selection awards associated with said selections in said selection set; a selector for enabling a player to pick said selections in said selection set; and a processor for causing said symbol indicator to indicate symbols of the award distributor, for providing the player any award associated with each indicated award symbol, for co-acting with the selector to enable the player to pick at least one of the selections from said plurality of selections when said selection group activator symbol is indicated, for providing the selection award associated with each picked selection to the player and for reducing the number of available selections in said selection set and eliminating the picked selection which may be subsequently picked by the player when the selection group activator symbol is indicated (col. 4, lines 47-67; col. 6, lines 17-27).

Regarding claim 46, Gura further teaches a touch screen (Fig. 2, #17).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Gura***.

Regarding claim 23, Gura teaches all the limitations of the claim as discussed above. While Gura teaches the reduction in the number of available selections in the selection set, Gura lacks teaching that this feature is random. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include this feature in Gura in order to give the casino/gaming authority more control over the game outcome. This would decrease the possiblilities of the casino having to pay large payouts for winning outcomes.

Regarding claim 19, Gura teaches all the limitations of the claim as discussed above. Gura is silent regarding the feature of an illumination device to indicate an award symbol. The examiner takes official notice that it is well known in the art to illuminate symbols in slot gaming machines. This provides excitement and adds aesthetic appeal to the gaming machine. Therefore, for these reasons, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include this feature in Gura.

Claims 3, 20, 32, 39, 49 and 53-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Gura*** in view of ***Adams*** (5,848,932) or ***Mayeroff*** (6,224,483).

Regarding claims 20, 39, 49, and 53-57, Gura teaches all the limitations of the claims as discussed above. Gura lacks teaching the feature wherein the aspects of the game are employed using a wheel with a plurality of selections. In an analogous slot machine game that incorporates a primary and secondary game (i.e. bonus game), Adams or Mayeroff teaches the use of a wheel with a plurality of selections (Adams-fig. 2, #150; Mayeroff- Fig. 2, #40, #42). The examiner takes official notice that it is well known in the art to employ these bonus wheels with a Wheel of Fortune™ type appeal to them. This feature increases the player's anticipation and provides an aesthetic enhancement, whereby the player anxiously awaits the wheel to come to a stop in order to determine the bonus winnings. Therefore, for these reasons, it would have been obvious to a person of ordinary skill in the art at the time of the invention to employ the bonus wheel with multiple sections, as disclosed by Adams or Mayeroff, in the game of Gura.

Regarding claims 3 and 32, Gura teaches all the limitations of the claims as discussed above. Gura lacks teaching the feature of random selection of a selection set. In an analogous slot machine game that incorporates a primary and secondary game (i.e. bonus game), Adams teaches the random selection of a selection set (col. 4, lines 40-42). The examiner takes official notice that it is well known to have the random selection of selection sets in gaming devices. This gives the casino/gaming authority

more control over the outcome of the game; thereby, this decreases the odds of the casino/gaming authority having to pay unexpectedly high payouts.

Claims 4-7,10-16, 18, 26-27, 33-34, 38, 43-44, 48 and 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Gura*** in view of ***Thomas*** et al (6,190,255).

Regarding claims 26-27 and 43-44, Gura teaches all the limitations of the claims as discussed above. Gura lacks disclosing a terminator that is associated with one selection in the selection set, wherein the processor ends the activations of the award distributor if the player picks the selection having the associated terminator. In an analogous gaming device with primary and secondary games (i.e. bonus game), Thomas teaches this feature of a terminator (Fig. 9; col. 10, lines 61-65). It would have been obvious to a person of ordinary skill in the art at the time of the invention to Modify Gura to include a terminator symbol, as taught by Thomas, in order to increase the difficulty of the game. Also, this feature would reduce the amount of awards distributed by the gaming authority/casino because it would decrease the odds of the player obtaining subsequent bonus outcomes.

Regarding claims 4-7,10-16, 18, 33-34, 38, 48 and 50-52, Gura teaches all the limitations of the claims as discussed above. Gura is silent regarding the probabilities for obtaining the selection sets. In an analogous gaming device with primary and secondary games (i.e. bonus game), Thomas teaches the feature of probabilities associated with the selection sets (Fig. 6; Fig. 11). The examiner takes official notice that it is well known in the art to program various probabilities for certain outcomes in slot gaming devices, according to the requirements/standards of gaming authorities.

This is merely a matter of modifying the hardware or software of the gaming device to suit the regulations of the casino or gaming authority. The combined inventions of Gura and Thomas are functionally capable of being programmed to achieve the various probabilities of the instant claims. Further, it is well known in the art to associate a lower probability with selection sets that produce higher payouts. Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to employ the probability feature taught by Thomas in Gura to alert the player of his/her chances of obtaining large bonus payouts. This would motivate the player to begin or continue play of the gaming device.

USPTO Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.

C. White
Patent Examiner

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